

IC 8-2.1-24**Chapter 24. Intrastate Motor Carrier Safety and Insurance Certification****IC 8-2.1-24-1****Applicability of chapter**

Sec. 1. This chapter applies to the certification of a motor carrier providing intrastate transportation by motor vehicle of property for compensation.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-2**Compliance with federal motor carrier safety regulations; application**

Sec. 2. Section 18 of this chapter applies to the regulation of the following persons:

- (1) A motor carrier described in section 1 of this chapter.
- (2) A private carrier of property.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-3**Exemptions**

Sec. 3. Except as provided in section 18 of this chapter, this chapter does not apply to the following:

- (1) Motor vehicles used exclusively for carrying United States mail.
- (2) Motor vehicles while being used or operated under the control, direction, and supervision of:
 - (A) the United States government, the state, or a political subdivision; or
 - (B) the board of trustees of a state institution.
- (3) Motor vehicles while transporting supplies, livestock feed ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.
- (4) Motor vehicles:
 - (A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;
 - (B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);
 - (C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:
 - (i) other property;
 - (ii) agricultural commodities; or
 - (iii) passengers;

for compensation; or

(D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

(5) The casual, occasional, or reciprocal transportation of household effects or furniture for compensation, not including the transportation for hire of new household effects or furniture to or from a factory, warehouse, or store, by a person who does not otherwise engage in the type of transportation for compensation or who is not required by this chapter to hold a certificate or permit to engage in the transportation or operation for hire who does not profess to engage in the business of transporting household effects or furniture for hire.

(6) Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

(7) Trucks with a declared gross weight of not more than forty-eight thousand (48,000) pounds, transporting nonliquid bulk or bag fertilizers.

(8) Motor vehicles while being used to transport chemicals that are used to melt ice and packed snow on roads and streets if the chemicals are owned by and being delivered to the state or a political subdivision for use on roads and streets.

(9) Trucks with a declared gross weight of not more than forty-six thousand (46,000) pounds transporting aggregate materials (mineral or rock fragments) in bulk when the person providing the transportation owns or leases not more than one (1) truck for those purposes.

(10) Motor vehicles used for the transportation of household goods.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-4

Powers of department

Sec. 4. The department may:

(1) certify a motor carrier providing transportation of property for compensation; and

(2) regulate and supervise safety, insurance, methods, and hours of operation of a motor carrier providing transportation of property.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-5

Inspection of records; examination of officers, agents, and employees; adoption of motor vehicle inspection rules

Sec. 5. The department may require the filing of annual and other reports and the submission of all records and information necessary to aid the department in the exercise of the powers granted by this chapter. The department, a member of the department, or an authorized representative of the department, may:

- (1) upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of a motor carrier;
- (2) examine, under oath, any officer, agent, or employee of a motor carrier in relation to the motor carrier's business affairs; and
- (3) prescribe rules for inspection of motor vehicles used by the motor carrier.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-6

Investigation

Sec. 6. Upon complaint in writing filed with the department or upon the department's own initiative without complaint, the department may investigate whether a person subject to this chapter has failed to comply with this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-7

Duty of department to compel compliance

Sec. 7. If the department, after notice and hearing, finds, in an investigation, that a person has failed to comply with this chapter, the department shall issue an appropriate order to compel compliance.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-8

Compulsory process; swearing of witnesses; record of testimony; administrative order

Sec. 8. The department, a member of the department, or an authorized representative of the department, may:

- (1) compel the attendance of witnesses;
- (2) swear witnesses;
- (3) take testimony under oath; and
- (4) make a record of testimony.

After a record is made under the direction of the department, an administrative law judge, or an authorized representative of the department, the department may make an appropriate order upon the record.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-9

Hearing; report of findings of fact and decision; exceptions

Sec. 9. (a) The department may hear all petitions or motions filed

with the department. The hearings may be conducted by the department, a member of the department, or an administrative law judge. The hearings shall be conducted in accordance with rules adopted by the department under IC 4-22-2.

(b) An administrative law judge shall promptly report to the department the facts established by evidence and submit a suggested order, showing the findings and a decision to the department.

(c) An order recommended by an administrative law judge may not be held for less than ten (10) days during which an interested party may file a written exception. If an exception is not filed, the finding of facts and decision in form of the order suggested by the administrative law judge shall be the order of the department, unless the department directs otherwise.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-10

Reconsideration or rehearing

Sec. 10. (a) After a decision, an order, or a requirement has been made by the department in a proceeding under this chapter, a party may apply to the department for reconsideration or rehearing of a matter determined in the proceeding. The department may grant the reconsideration or rehearing if sufficient reason is found.

(b) Applications for reconsideration or rehearing shall be governed by rules adopted by the department under IC 4-22-2. If after reconsideration or rehearing it appears that the original decision, order, or requirement is unjust or unwarranted, the department may change or modify the decision, order, or requirement.

(c) A decision, an order, or a requirement made after reconsideration or rehearing is subject to the same provisions as the original decision, order, or requirement.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-11

Agreements with federal or state agencies for supervision of transportation of property

Sec. 11. The department may, upon recommendation of the attorney general, and subject to the approval of the governor, enter into an agreement or understanding with the Interstate Commerce Commission, any other appropriate agency of the federal government, another Indiana department or agency, or an agency of another state for the purpose of more effective supervision of safety and responsible transportation of property, intrastate.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-12

Rules affecting motor carriers

Sec. 12. The department may by rules adopted under IC 4-22-2 adopt orders, standards, or regulations of the Interstate Commerce Commission, any other appropriate agency of the federal

government, or another state as the orders, standards, or regulations affect motor carriers, whether or not specifically referred to under this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-13

Uniform procedures and forms

Sec. 13. The department may cooperate with other state agencies in adopting combined uniform procedures and forms.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-14

Powers of department; employment of administrative law judges and other necessary employees

Sec. 14. The department may perform all reasonably necessary actions to carry out this chapter, including the power, subject to:

(1) the approval of the state personnel department and the budget agency; and

(2) IC 4-21.5;

to employ and fix the compensation of administrative law judges, investigators, clerks, and other employees as necessary or advisable for the effective administration of this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-15

Acknowledgment by department required for operation; term of acknowledgment

Sec. 15. A motor carrier may not operate a motor vehicle in the transportation of property, upon a public highway in intrastate commerce until the motor carrier has:

(1) submitted forms approved by the department to be a properly certified motor carrier; and

(2) been issued an acknowledgment by the department.

An acknowledgment issued under subdivision (2) remains in effect until December 31 of the year in which the acknowledgment is issued.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-16

Renewal procedure; term of renewal certification

Sec. 16. The annual renewal by motor carriers under this chapter is performed in the following manner:

(1) An application for renewal must be submitted on a form prescribed by the department.

(2) An application for renewal may be received by the department at any time after September 30 of the year preceding the year of certification and must be received before November 30 of the year preceding the certification year.

(3) A certification expires December 31 of each year. The department may extend the term of a certification for cause.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-17

Surety bond, insurance, or other security required

Sec. 17. (a) A person may not operate a motor vehicle for the transportation of property upon a public highway, and a motor carrier may not be certified, unless the motor carrier complies with the rules adopted by the department governing the filing and approval of surety bonds, policies of insurance, qualifications of a self-insurer, or other securities or agreements.

(b) A surety bond, policy of insurance, self-insurance, or security or other agreement approved under this section must be of a reasonable amount and conditioned to pay, within the amount of the surety bond, policy of insurance, self-insurance, or security or other agreement, a final judgment recovered against the motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of the motor carrier's registered motor vehicle, or for loss or damage to property of others.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-18

Compliance with federal motor carrier safety regulations

Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;

- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or
- (2) an employee of a law enforcement agency who:
 - (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49

CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has applied for or holds a commercial driver's license (as defined in IC 9-13-2-29), diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection

reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

As added by P.L.110-1995, SEC.29. Amended by P.L.61-1996, SEC.10; P.L.84-1997, SEC.1; P.L.85-1997, SEC.1; P.L.98-1999, SEC.1; P.L.92-2000, SEC.1; P.L.75-2003, SEC.1; P.L.219-2003, SEC.1; P.L.208-2003, SEC.2.

IC 8-2.1-24-19

Service of process on nonresident motor carrier

Sec. 19. (a) A nonresident motor carrier must file and keep on file with the department a designation in writing of the name and post office address of a citizen and resident of Indiana upon whom service of notices or orders may be made, and upon whom process issued by or under the authority of a court having jurisdiction of the subject matter may be served. Service of process in a proceeding under this chapter may be made upon the motor carrier by personal service, upon the citizen designated by the motor carrier, or by registered mail addressed to the motor carrier or designee at the last address shown by the records of the department.

(b) In default of a designation under this section, in case of vacancy, or if for any other reason the motor carrier may not be served with process, service of the notice or order may be made by serving two (2) copies of the notice or order upon the department. When service is made upon the department under this subsection, the department shall promptly mail one (1) copy of the notice or order served to the motor carrier by registered mail at the last address shown by the records of the department.

(c) When notice is given by mail under this section, the date of mailing shall be considered as the time when notice is served.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-20

Single state registration system

Sec. 20. Before a motor carrier engaged in the transportation of property for compensation may operate a motor vehicle upon a public highway providing intrastate transportation, the motor carrier must be properly registered as required under the single state registration system in accordance with rules adopted by the department under IC 4-22-2. This section does not apply to a person exclusively engaged in the private transportation of property.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-21

Display of identification on or in vehicle

Sec. 21. A motor carrier shall display identification in the method required by the department on or in each motor vehicle the motor carrier operates.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-22

Augmenting, interchanging, or leasing equipment; lease of equipment and driver to shipper by noncarrier lessor

Sec. 22. (a) A motor carrier augmenting equipment, interchanging equipment, or leasing equipment, with or without drivers, shall comply with the rules of the department governing lease and interchange of vehicles.

(b) If a lessor who is not a motor carrier leases both equipment and driver to a shipper, the arrangement is presumed to result in private carriage by the shipper, subject to the conditions of this subsection. A lease agreement under this subsection must:

- (1) be reduced to writing;
- (2) be for a term of at least thirty (30) days;
- (3) provide that the leased equipment is exclusively committed to the lessee's use for the term of the lease;
- (4) provide that during the term of the lease, the lessee accepts, possesses, and exercises exclusive dominion and control over the leased equipment and assumes complete responsibility for the operation of the equipment;
- (5) require that the lessee maintain public liability insurance and accept responsibility to the public for any injury caused in the course of performing the transportation service conducted by the lessee with the equipment during the term of the lease; and
- (6) require that the lessee display appropriate identification on all equipment leased by it, showing operation by the lessee during the performance of the transportation.

(c) A presumption under subsection (b) may be rebutted if actual operations under the lease agreement weaken the control and responsibility required of a shipper when conducting transportation operations with equipment and drivers leased from a single source.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-23

"Bill of lading" defined; documentation to be presented upon request

Sec. 23. (a) As used in this section, "bill of lading" means a document evidencing the receipt of goods for shipment that is issued by a person who is engaged in the business of transporting or forwarding goods.

(b) A motor carrier or a person who operates a motor vehicle for a motor carrier shall present, at the request of the state police department or an authorized representative of the department, the following:

- (1) Documentation that identifies the shipper or the motor carrier.
- (2) A bill of lading or similar document that:
 - (A) identifies the origin and destination of the shipment;
 - (B) describes the goods being transported;
 - (C) states the name and address of the consignor and the consignee; and
 - (D) states the date when the goods were shipped.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-24

Violation

Sec. 24. A person who violates this chapter commits a Class B infraction.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-25

Impoundment of vehicles and cargo; release

Sec. 25. (a) The department or the state police department may impound a motor vehicle operated for hire if:

- (1) the motor carrier of property has not obtained the required certification from the department; and
- (2) the vehicle is being operated on an Indiana highway.

(b) To obtain possession of a motor vehicle impounded under subsection (a), the motor carrier that operates the motor vehicle must either:

- (1) obtain the required certification from the department; or
- (2) remove from the vehicle all cargo for which the required certification has not been obtained.

(c) If the motor carrier that operates a motor vehicle impounded under subsection (a) is not the owner of the vehicle, the department or the state police department shall release the motor vehicle to the owner unless the owner was aware that the motor vehicle was being operated without the required certification.

(d) Cargo held in a motor vehicle impounded under subsection (a) must be released if the cargo is loaded into a motor vehicle operated in compliance with this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-26

Civil penalty

Sec. 26. (a) A person who violates this chapter is subject to a civil penalty of one hundred dollars (\$100) for the first violation and one thousand dollars (\$1,000) for each subsequent violation.

(b) Civil penalties described in subsection (a) may be assessed only after an administrative hearing under IC 6-8.1-5-1 has been conducted at which the person has an opportunity to present information as to why a civil penalty should not be assessed.

(c) Money collected by the department under subsection (b) shall be deposited in the motor carrier regulation fund established under IC 8-2.1-23.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-27**Inspections**

Sec. 27. Inspections to determine and enforce violations under this chapter may be conducted by the state police department, agents of the department, Indiana state police motor carrier inspectors, and any other eligible law enforcement officer through the procedures established by the department. Agents of the department have the same power and authority under this section as is provided to authorized personnel under IC 16-44-2-11 and IC 16-44-2-12.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-28**Revocation and confiscation of registrations, license plates, or cab cards**

Sec. 28. Pursuant to an operations out of service order issued by the United States Department of Transportation or the Federal Highway Administration affecting a motor carrier operating in Indiana, the department of state revenue or the state police department may revoke and confiscate any registrations, license plates, or cab cards issued under IC 9-18.

As added by P.L.98-1999, SEC.2.